

Message

From: Hicks, Matt [Hicks.Matthew@epa.gov]
Sent: 6/3/2020 8:02:55 PM
To: Armor, Suzanne [Armor.Suzanne@epa.gov]; Jaikaran, Bianca [Jaikaran.Bianca@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]
CC: Nagrani, Kavita [Nagrani.Kavita@epa.gov]
Subject: RE: Quick Tribal Lands definition question

Ah, but you added some perspective to the discussion missing from Tod's analysis. 😊

From: Armor, Suzanne <Armor.Suzanne@epa.gov>
Sent: Wednesday, June 3, 2020 3:55 PM
To: Jaikaran, Bianca <Jaikaran.Bianca@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>
Cc: Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Subject: RE: Quick Tribal Lands definition question

Got it, and just responded with a few points on Tod's very thorough analysis. I'm not as quick on the draw as Tod is 😊

From: Jaikaran, Bianca <Jaikaran.Bianca@epa.gov>
Sent: Wednesday, June 3, 2020 3:53 PM
To: Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>
Cc: Armor, Suzanne <Armor.Suzanne@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Subject: RE: Quick Tribal Lands definition question

Thank you for letting us know – I thought Tod would have a lot to say about this.

From: Hicks, Matt <Hicks.Matthew@epa.gov>
Sent: Wednesday, June 3, 2020 3:50 PM
To: Ghosh, Mita <Ghosh.Mita@epa.gov>; Jaikaran, Bianca <Jaikaran.Bianca@epa.gov>
Cc: Armor, Suzanne <Armor.Suzanne@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Subject: FW: Quick Tribal Lands definition question

It looks like Tod Siegal has given this some thought and has some initial questions and has looped Suzanne into the conversation.

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Wednesday, June 3, 2020 3:31 PM
To: Siegal, Tod <Siegal.Tod@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>
Subject: RE: Quick Tribal Lands definition question

Thank you, Tod.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q

From: Siegal, Tod <Siegal.Tod@epa.gov>

Sent: Wednesday, June 3, 2020 3:20 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>

Subject: RE: Quick Tribal Lands definition question

Ex. 5 AC/DP

Tod Siegal

U.S. EPA, Office of General Counsel

Cross-Cutting Issues Law Office

202-564-5552

From: Kupchan, Simma <Kupchan.Simma@epa.gov>

Sent: Wednesday, June 03, 2020 3:13 PM

To: Siegal, Tod <Siegal.Tod@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>

Subject: RE: Quick Tribal Lands definition question

This is so helpful, Tod, thank you. It looks like additional conversation may be needed. Any objections if I shoot this to FDEP just to give them an initial sense as to our thinking?

Simma Kupchan

EPA Office of General Counsel

Water Law Office

WJC North Building # 7426Q

202-564-3105

From: Siegal, Tod <Siegal.Tod@epa.gov>

Sent: Wednesday, June 3, 2020 2:51 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>

Subject: RE: Quick Tribal Lands definition question

Thanks Simma. I have a number of questions about the language. I'm adding Suzanne Armor (ORC Indian law counsel) so she'll be aware of this issue.

Ex. 5 AC/DP

Ex. 5 AC/DP

Happy to discuss further. Thanks.

Tod Siegal
U.S. EPA, Office of General Counsel
Cross-Cutting Issues Law Office
202-564-5552

From: Kupchan, Simma <Kupchan.Simma@epa.gov>

Sent: Wednesday, June 03, 2020 2:04 PM

To: Siegal, Tod <Siegal.Tod@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita

<Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>

Subject: Quick Tribal Lands definition question

All,

Stephanie Gray with FDEP just called and said they had just received the request below from the Seminole Tribe. They said they would be happy to incorporate it into their rule if it's ok with EPA, but defer to us. They would like to know whether they can incorporate it by Thursday evening, if possible, when they have to submit their draft rule. Is it possible for us to say by tomorrow whether this definition is:

1. acceptable for FL to use
2. not acceptable, or
3. acceptable with edits or warrants discussion?

Tod, I am forwarding to you in particular, as I assume if it's ok with Tod, most of the rest of us will be ok with it?

Thanks so much for your attention.

Thank you for the update and thank you again for allowing the Seminole Tribe an opportunity to review and provide comments on the draft Biological Assessment. Michelle and I have had a chance to confer with the Seminole Tribe's other council on the materials you provided us regarding a proposed definition of "Tribal lands or Tribal waters" as used in **Proposed Rule 62-331, F.A.C. and the 404 Applicant's Handbook**.

The Seminole Tribe would recommend utilization of the following definition for "Tribal lands or Tribal waters":

"Tribal lands or Tribal waters" shall mean all such lands and waters that are: 1) within the exterior boundaries of a federal Indian reservation, regardless of title status; 2) within Florida and considered Indian Country under 18 U.S.C. Section 1151, no matter where located; and 3) all lands/waters owned by a Tribe^[1], the health and safety of which are impacted by the lands and waters regulated by the Florida Department of Environmental Protection under the State 404 Program.

We are happy to make ourselves available to discuss the proposed definition and any questions you may have on the Seminole Tribe's comment letter submitted May 28th on the draft Biological Assessment.

Regards,

Rachael B. Santana | Attorney
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^[1] "Tribe" is defined within the 404 Rules to mean "any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation."

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